

Message Text

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C O N F I D E N T I A L SECTION 1 OF 2 CARACAS 7258

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TAGS: ELAB
SUBJ: INFORMATION ON LABOR STANDARDS IN VENEZUELA
REF: A STATE 194523, B STATE 136706

SUMMARY: PRESCRIBED LABOR STANDARDS HAVE A SOLID GROUNDING IN VENEZUELAN LAW, BUTTRESSED BY CONSTITUTIONAL COMMITMENT TO HUMAN AND LABOR RIGHTS. PROHIBITIONS ON SLAVE OR CHILD LABOR ARE ROUGHLY EQUIVALENT TO THOSE IN THE US, AND THE EMBASSY KNOWS OF NO VIOLATIONS IN PRACTICE. NO SPECIAL EXPORT INCENTIVES ARE OFFERED BY MEANS OF RELAXED LABOR STANDARDS IN THE EXPORT SECTOR. WORKER SAFETY AND HEALTH PROTECTIONS ARE ADEQUATE IN THEORY AND POLICY BUT IN PRACTICE THE ADMINISTRATION IS DIFFUSE AND AMBIGUOUS. A NEW LAW ON WORK ENVIRONMENT IS IN PREPARATION AND IS EXPECTED TO DIRECTLY ADDRESS CURRENT PROBLEMS. THE PRESIDENT HAS PROMISED ITS EARLY SUBMISSION TO CONGRESS, AND THE TRADE UNION MOVEMENT IS ACTIVELY PROMOTING IT. END SUMMARY.

1. REFTEL B REQUESTS INFORMATION ON CERTAIN CATEGORIES OF LABOR STANDARDS APPLIED IN VENEZUELA. IN PREFACE THE EMBASSY WOULD NOTE THAT VENEZUELA HAS A FUNCTIONING DEMOCRATIC SYSTEM OPERATING UNDER A CONSTITUTION ADOPTED IN 1961. THE CONSTITUTION CONTAINS MOST OF THE SAME GUARANTEES OF CIVIL AND HUMAN RIGHTS EMBODIED IN THE US CONSTITUTION.
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MOREOVER, A STRONG TRADE UNION MOVEMENT OPERATING IN THE COUNTRY EXERTS CONSIDERABLE INFLUENCE IN ASSURING COMPLIANCE WITH EXISTING LABOR STANDARDS. THEREFORE, THE DEPT CAN ASSUME, UNLESS OTHERWISE INDICATED, THAT LABOR LAWS AND REGULATIONS OUTLINED BELOW ARE IMPLEMENTED IN PRACTICE. DISPROPORTIONATE SPACE HAS BEEN ALLOTTED TO DISCUSSION OF LABOR SAFETY AND HEALTH BECAUSE OF THE COMPLEXITY OF THIS

ISSUE IN VENEZUELA. COMMENTS BELOW ARE KEYED TO THE CATEGORIES OUTLINED IN PARA THREE OF REFTEL B.

2. SLAVE OR OTHER FORCED LABOR: SLAVERY AS AN INSTITUTION WAS ABOLISHED IN 1854 BY DECREE OF PRESIDENT (GENERAL) JOSE TADEO MONAGAS. THE PREAMBLE OF THE 1961 CONSTITUTION STIPULATES " THE PROTECTION AND UPLIFTING OF LABOR" AND " AN EQUITABLE PARTICIPATION BY ALL IN THE ENJOYMENT OF WEALTH." ARTICLE 19 OF THE LABOR LAW (LEY DE TRABAJO) AS AMENDED MAY 5, 1975, REQUIRES REMUNERATION OF ALL LABOR. PRESIDENTIAL DECREE NO 122 OF MAY 31, 1975, ESTABLISHED A NATIONAL MINIMUM WAGE FOR ALL WORKERS OF BS 15(US \$3.50) PER DAY. MARKET FORCES AND THE WELL-ESTABLISHED COLLECTIVE BARGAINING SYSTEM IN FACT PUT WAGES WELL ABOVE THIS LEVEL EXCEPT IN THE MOST MENIAL OF JOBS. IN 1977 THE AVERAGE SALARY COMPUTED BY THE MINISTRY OF LABOR IN FIRMS WITH FIVE OR MORE EMPLOYEES WAS \$443 PER MONTH FOR BLUE-COLLAR WORKERS AND \$943 PER MONTH FOR WHITE-COLLAR WORKERS. WHILE THERE MAY BE ISOLATED CASES OF INVOLUNTARY LABOR OR SUB-LEGAL REMUNERATION, THE EMBASSY IS UNAWARE OF SUCH VIOLATIONS OF LAW AND IS CONFIDENT WUCH PRACTICE WOULD NOT BE CONDONED BY THE GOVT OR BY THE TRADE UNION MOVEMENT.

3. CHILD LABOR: TITLE 3 CHAPTER 5(ARTICLES 109-121 OF THE LABOR LAW) IS DEVOTED TO PROTECTION OF WOMEN AND CHILDREN
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IN EMPLOYMENT. ARTICLE 109 PROHIBITS THE EMPLOYMENT OF CHILDREN UNDER 14 YEARS OF AGE. THE MAXIMUM WORKDAY FOR CHILDREN AGE 14-16 IS SIX HOURS WITH A REQUIRED REST PERIOD AWAY FROM THE WORK PLACE AFTER THREE HOURS (ARTICLE 110) AND THE LABOR REGULATION SETS A MAXIMUM 30-HOUR WORK WEEK. ARTICLE 111 LIMITS WORKING HOURS OF WOMEN AND CHILDREN TO DAYTIME HOURS EXCEPT FOR CERTAIN SERVICE OCCUPATIONS GOVERNED BY SEPARATE REGULATIONS. ARTICLE 112 PROHIBITS WORK IN EXCESS OF A MINOR'S PHYSICAL ABILITY AND IN CERTAIN DANGEROUS OR DIFFICULT OCCUPATIONS. CHILDREN UNDER 14 ARE INVOLVED IN SUCH FREE-LANCE ACTIVITIES AS VENDING AND SHOESHINING, BUT THE EMBASSY THINKS THE LAW IS WELL ENFORCED IN INDUSTRIAL AND COMMERCIAL ESTABLISHMENTS.

4. SAFETY AT THE WORK PLACE: RESPONSIBILITY FOR MONITORING AND ENFORCING LABOR SAFETY AND HEALTH LAWS IS DIFFUSED AMONG THE MINISTRY OF LABOR AND ITS AUTONOMOUS ARM, THE VENEZUELAN SOCIAL SECURITY INSTITUTE(IVSS); THE MINISTRY OF HEALTH; THE VENEZUELAN COMMISSION OF INDUSTRIAL NORMS (CONVENIN); FIRE DEPTS AND VARIOUS LOCAL AUTHORITIES. THE LABOR LAW,TITLE THREE, CHAPTER SIX (ARTICLES 122-129) REQUIRES THAT EMPLOYERS PROVIDE SUFFICIENT PROTECTION TO

THE HEALTH AND LIFE OF WORKERS AGAINST ACCIDENTS AND OCCUPATIONAL DISEASES (ART 122). THE EMPLOYER IS REQUIRED TO ASSURE SUCH PROTECTION ACCORDING TO GOVT REGULATIONS (ART 123). THE "REGULATIONS OF CONDITIONS OF HEALTH AND SAFETY IN WORK"(DECREED IN 1968 AND REVISED BY PRESIDENTIAL DECREE 1564, DEC 31, 1973). PROVIDES FOR APPOINTMENT OF INSPECTORS WITH THE RIGHT TO VISIT WORK PLACES AND ORDER COMPLIANCE WITH THE REGULATION. THE REGULATION'S 868 ARTICLES PROVIDE QUITE DETAILED SPECIFICATIONS FOR SOME SAFETY AND HEALTH AREAS BUT ARE LESS SPECIFIC ON OTHERS INCLUDING RISKS FROM DANGEROUS SUBSTANCES. ARTICLE 319 LISTS VARIOUS INDUSTRIAL DISEASES AND THEIR CAUSES,BUT THE LISTING IS NOT COMPREHENSIVE AND DOES NOT SPECIFY CONTROL MEASURES.

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5. ALTHOUGH ENFORCEMENT OF ESTABLISHED SAFETY PRACTICES IS WELL GROUNDED IN LAW, ITS ADMINISTRATION HAS EVOLVED IN AD HOC FASHION. THE STRENGTHENING OF THE SOCIAL SECURITY SYSTEM AND ESTABLISHMENT OF THE IVSS IN 1967 CREATED AN

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AGENCY WITH A VESTED INTEREST IN PREVENTING ACCIDENTS AND MAINTAINING WORKER HEALTH SINCE IVSS BECAME RESPONSIBLE FOR INDEMNITY PAYMENTS FOR JOB-RELATED ILLNESS AND INJURY. ARTICLES 113 AND 179 OF THE REGULATION OF THE SOCIAL SECURITY LAW OF JUNE 22, 1967, GIVE IVSS THE

MANDATE TO ESTABLISH AND ENFORCE HEALTH AND SAFETY STANDARDS IN WORK PLACES COVERED BY SOCIAL SECURITY IN COORDINATION WITH THE MINISTRIES OF HEALTH AND LABOR. THE SOCIAL SECURITY SYSTEM IS NOT COMPREHENSIVE, COVERING ONLY ABOUT ONE-THIRD OF THE WORK FORCE AND ONLY PART OF THE COUNTRY. NEVERTHELESS, IT COVERS THE GREAT MAJORITY OF FIRMS IN THE MODERN INDUSTRIAL SECTOR AND IVSS INSPECTORS APPARENTLY CONDUCT THE BULK OF INSPECTIONS AND ENFORCEMENT ACTIVITY. IN FIRMS NOT COVERED BY IVSS, MINISTRY OF LABOR INSPECTOR CONTROL ACCIDENT PROBLEMS WHILE THE MINISTRY OF HEALTH ENFORCES INDUSTRIAL HEALTH REGULATIONS.

6. THE COMBINED LABOR SAFETY AND HEALTH ESTABLISHMENT USES US DATA ON ACCEPTABLE EXPOSURE LEVELS OF DANGEROUS SUBSTANCES INCLUDING THOSE LISTED IN PARA 3.C OF STATE 136706. ACCORDING TO AN IVSS SOURCE, TOLERANCE LEVELS ARE USUALLY SET LOWER THAN US STANDARDS. HOWEVER, THE MULTIPLICITY OF AGENCIES INVOLVED IN ADMINISTRATION OF THE LAW AND THE SHORTAGE OF QUALIFIED INSPECTORS SUGGESTS THAT ENFORCEMENT FALLS WELL SHORT OF PRESCRIBED STANDARDS.
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STATISTICAL DATA IS DEFICIENT AND THE VARIETY OF REPORTING AGENCIES MAKES MEANINGFUL COLLATION DIFFICULT. THE ADMINISTRATION RARELY LEVIES SANCTIONED FINES ON OFFENDING FIRMS AND RELIES ON PERSUASION TO CORRECT DEFICIENCIES IN SAFETY AND HEALTH PRACTICE.

7. THE VENEZUELAN GOVT, LABOR AND BUSINESS ESTABLISHMENT IS AWARE OF SHORTCOMINGS IN THE FIELD. AN ILO TEAM UNDER THE "INTERNATIONAL PROGRAM FOR THE IMPROVEMENT OF THE CONDITIONS AND ENVIRONMENT OF LABOR" WAS INVITED TO VISIT VENEZUELA IN NOVEMBER 1976 AND PREPARED A HIGHLY INFORMATIVE REPORT OUTLINING DEFICIENCIES BOTH IN ADMINISTRATION AND PRACTICE. THE TEAM RECOMMENDED A NEW LAW WHICH WOULD CONSOLIDATE AND STRENGTHEN GOVERNMENT ACTIVITY IN THIS FIELD. AN ILO EXPERT SUBSEQUENTLY WORKED WITH THE GOV TO DEVELOP A DRAFT LAW, AND PRESIDENT CARLOS ANDRES PEREZ PROMISED EARLY SUBMISSION OF THE LAW TO CONGRESS IN HIS 1978 MAY DAY SPEECH. IT IS UNLIKELY THAT THE LAW WILL BE SUBMITTED BEFORE 1979 IN VIEW OF HEAVY ELECTION YEAR ACTIVITY, BUT THERE IS CONSIDERABLE PRESSURE, ESPECIALLY FROM THE TRADE UNION MOVEMENT, TO MOVE AS QUICKLY AS POSSIBLE.

8. DIFFERENTIAL LABOR REGULATIONS OR STANDARDS IN EXPORT INDUSTRY: THE VENEZUELAN GOVERNMENT PROVIDES TAX AND CREDIT INCENTIVES TO NON-TRADITIONAL EXPORTERS, BUT THERE IS NO SPECIAL LABOR LAW OR PRACTICE WHICH APPLIES TO THIS SECTOR. IT IS UNLIKELY UNDER PRESENT CIRCUMSTANCES

THAT THE LABOR MOVEMENT OR THE POPULATION AT LARGE WOULD
TOLERATE SUB-STANDARD EMPLOYMENT PRACTICES IN THIS
SECTOR.
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